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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Steve Guilkey :
Application No. 09/878,578 : **DECISION ON PETITION**
Filed: June 11, 2001 :
Title: DUNNAGE TRANSPORT ORGANIZER :

This is a decision on the petition under § 1.137(b) filed June 6, 2005, to revive the above-identified application based on unintentional delay.

The petition under § 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned effective June 27, 2003 for failure to timely file a reply to the final rejection mailed March 26, 2003. A Notice of Abandonment was mailed on October 28, 2003.

By decision mailed February 4, 2004, a prior petition to revive based on unavoidable delay filed November 10, 2003 was dismissed. Petitioner failed to submit the required reply or to make an adequate showing of unavoidable delay. As to the required reply, petitioner was specifically advised that the reply filed on petition did not place the application in condition for allowance, and as such, the reply was not sufficient to revive the application. An advisory action was enclosed with the decision.

On instant petition under § 1.137(b), applicant submitted the petition fee pursuant to 37 CFR 1.17(m) and made the required statement of unintentional delay. However, as to the required reply, applicant resubmitted the reply submitted on petition filed November 10, 2003. The petition includes no basis for making a determination that this reply should now be considered sufficient. Thus, it is concluded that this reply continues to be insufficient to revive the application (Another copy of the advisory action is enclosed). Accordingly, the petition must be dismissed.

Petitioner is reminded that the proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law), (2) an amendment that *prima facie* places the application in condition for allowance, (3) the filing of a continuing application, (4) a request for continuing examination under §1.114, or (5) if applicable, a § 1.129(a) submission.

Moreover, in the original dismissal, petitioner was advised that the filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. However, the instant petition was filed more than a year after the mailing date of the dismissal mailed February 4, 2004. Accordingly, any renewed petition under § 1.137(b) should set forth a basis for concluding that the delay in filing a petition under § 1.137(b) from the time of receipt of the decision mailed February 4, 2004 to the filing of the instant petition on June 6, 2005 should be considered unintentional within the meaning of § 1.137(b).

In sum, any renewed petition under § 1.137(b) to be grantable must include:

1. The required reply
2. A showing that the delay in filing the unintentional petition was unintentional, and
3. Any required extension of time fees, if the response is filed more than 2 months after the mailing of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.



Nancy Johnson
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Office of Petitions

Enclosure: Advisory Action